

JANET M. HEROLD, Regional Solicitor
herold.janet.m@dol.gov
California State Bar Number 243568
BRUCE L. BROWN, Assoc. Reg. Solicitor
brown.bruce.l@dol.gov
Washington State Bar No. 18844
SUSAN BRINKERHOFF, Trial Attorney
brinkerhoff.susan@dol.gov
District of Columbia Bar No. 460945
Office of the Solicitor, U.S. Dep't of Labor
300 Fifth Avenue, Suite 1120
Seattle, WA 98104
Phone (206) 757-6762
Fax (206) 757-6761
Attorneys for the Plaintiff

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON

SETH D. HARRIS, Acting Secretary of the)
United States Department of Labor,)

) Case No.: 13-683

Plaintiff,)

vs.)

**COMPLAINT FOR VIOLATIONS OF
THE FAIR LABOR STANDARDS ACT**

SUMMIT DRYWALL, INC., a Washington)
State corporation, and THOMAS)
KAUZLARICH, an individual,)

Defendants.)

1. Plaintiff SETH D. HARRIS, Acting Secretary of Labor, United States Department of Labor (the "Acting Secretary" or "Plaintiff"), brings this action pursuant to Section 17, 29 U.S.C § 217, of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C §§ 201-19 (hereinafter "FLSA" or the "Act"), to enjoin Defendants SUMMIT DRYWALL, INC., and THOMAS KAUZLARICH from violating the provisions of Sections 15(a)(2) and 15(a)(5) of the Act, 29 U.S.C §§ 215(a)(2), (5).

1 2. Plaintiff also and separately brings this action pursuant to Section 16(c) of the
2 Act, 29 U.S.C. §§ 216(c), for the recovery of a judgment against Defendants for unpaid
3 minimum wage and overtime compensation due Defendants' employees listed in the attached
4 Exhibit A (and additional employees whose claims become known to Plaintiff) and liquidated
5 damages in an amount equal thereto, or in the event liquidated damages are not awarded, pre-
6 judgment interest computed on the unpaid wages due.

7 3. Jurisdiction of this action is conferred upon the Court by Sections 16(c) and 17 of
8 the FLSA, 29 U.S.C. §§ 216(c), 217; by 28 U.S.C. § 1331 (federal question); and by 28 U.S.C.
9 § 1345 (United States as plaintiff).

10 4. Venue lies in the United States District Court, Western District of Washington,
11 pursuant to 28 U.S.C. § 1391(b) as both Defendants reside in this judicial district.

12 5. At all times material hereto, Defendant SUMMIT DRYWALL, INC., is and has
13 been a Washington State corporation licensed to do business in Washington State, with its
14 principal place of business located at 18830 244th Lane S.E., Issaquah, Washington 98027,
15 within the jurisdiction of this Court, where it is and has been engaged in the business of
16 providing drywall installation services.

17 6. At all times material hereto, Defendant SUMMIT DRYWALL, INC., is and has
18 been an employer within the meaning of FLSA § 3(d), 29 U.S.C. § 203(d), in relation to the
19 employees listed on Exhibit A to the Complaint (and additional employees whose claims become
20 known to Plaintiff).

21 7. At all times material hereto, Defendant THOMAS KAUZLARICH is and has
22 been an owner and president of Defendant SUMMIT DRYWALL, INC., and is and has been at
23 all relevant times an employer within the meaning of FLSA § 3(d), 29 U.S.C. § 203(d), in that he
24 was a person acting directly or indirectly in the interest of Defendants (employers) in relation to
25 their employees listed on Exhibit A (and additional employees whose claims become known to

1 Plaintiff), and had economic and operational control over Defendant SUMMIT DRYWALL,
2 INC., and its business in the State of Washington.

3 8. At all times relevant to this Complaint, Defendants employ and/or employed
4 employees in and about their place of business who handled, sold, or otherwise worked on goods
5 or materials that have been moved in or produced for commerce by any person.

6 9. At all times relevant to this Complaint, Defendant SUMMIT DRYWALL, INC.,
7 is and has been an "enterprise," as defined in FLSA § 3(s)(1)(A), 29 U.S.C. § 203(s)(1)(A),
8 whose annual gross volume of sales made or business done of not less than \$500,000 (exclusive
9 of sales taxes at the retail level that are separately stated). By reason thereof, said enterprise at
10 all times relevant to this Complaint was an enterprise engaged in commerce or in the production
11 of goods for commerce within the meaning of the Act.

12 10. Defendants have violated and/or are violating the provisions of FLSA §§ 6 and
13 15(a)(2), 29 U.S.C. §§ 206, 215(a)(2), by paying the employees listed in Exhibit A (and
14 additional employees whose claims become known to Plaintiff) who were engaged in commerce
15 or in the production of goods for commerce, or in an enterprise engaged in commerce or in the
16 production of goods for commerce, less than the minimum wage for all hours worked.

17 11. Defendants have violated and/or are violating the provisions of FLSA §§ 7 and
18 15(a)(2), 29 U.S.C. §§ 207, 215(a)(2), by employing the employees listed in Exhibit A (and
19 additional employees whose claims become known to Plaintiff) who were engaged in commerce
20 or in the production of goods for commerce, or in an enterprise engaged in commerce or in the
21 production of goods for commerce, for work weeks longer than forty (40) hours without
22 compensating said employees for all their employment in excess of 40 hours in such work weeks
23 at rates not less than one and one-half the regular rates at which they were employed.

24 12. Defendants have violated and/or are violating the provisions of FLSA §§ 11(c)
25 and 15(a)(5), 29 U.S.C. §§ 211(c), 215(a)(5), by failing to maintain, keep, make available (to

1 authorized agents of Plaintiff for inspection, transcription, and/or copying), and preserve records
2 of employees and of the wages, hours, and other conditions and practices of employment
3 maintained, as prescribed by the regulations promulgated by Plaintiff pursuant to the authority
4 granted in the Act and published in the Federal Register and known as Title 29, Code of Federal
5 Regulations, Part 516.

6 13. Defendants violated and/or are violating the monetary provisions of the Act as
7 alleged in paragraphs 10 and 11, and, as a result, Defendants are liable for unpaid minimum
8 wage and overtime compensation and an equal amount in liquidated damages under FLSA
9 § 16(c), 29 U.S.C. § 216(c).

10 14. At all times relevant to this Complaint, Defendants repeatedly violated the above-
11 described provisions of the FLSA.

12 15. Defendants' violations of the above-described provisions of the FLSA were
13 willful in nature.

14 16. As a result of the violations of the overtime and minimum wage provisions of the
15 FLSA, there is unpaid overtime and minimum wage compensation due under the FLSA that is
16 being withheld by Defendants;

17 17. Judgment permanently enjoining and restraining such violations of the FLSA is
18 specifically authorized by FLSA § 17, 29 U.S.C. § 217.

19 18. Judgment awarding unpaid back wages due under the FLSA, plus an additional
20 amount as liquidated damages that is equal to the amount of the back wages that accrued under
21 the FLSA, is specifically authorized by FLSA § 16(c), 29 U.S.C. § 216(c).

22
23 WHEREFORE, cause having been shown, Plaintiff prays for a Judgment against
24 Defendants as follows:

25 (1) For an Order pursuant to FLSA § 17, 29 U.S.C. § 217, permanently enjoining and

1 restraining Defendants, their officers, agents, servants, employees, and all persons acting in their
2 behalf and interest from prospectively violating the provisions of FLSA §§ 15(a)(2) and 15(a)(5),
3 29 U.S.C. §§ 215(a)(2), (5);

4 (2) For an Order pursuant to FLSA § 16(c), 29 U.S.C. § 216(c), finding Defendants
5 liable for unpaid minimum wage and overtime compensation found by the Court to be due
6 Defendants' employees (including those named in the attached Exhibit A and additional
7 employees whose claims become known to Plaintiff), plus an equal amount in liquidated
8 damages; or, in the event liquidated damages are not awarded, pre-judgment interest computed
9 on the unpaid wages due;

10 (3) For an Order awarding Plaintiff his fees and the court costs of action; and


11 (4) For an Order granting Plaintiff such other and further relief as may be necessary
12 and appropriate.

13 DATED this 16th day of April, 2013.

14 M. PATRICIA SMITH
15 Solicitor of Labor

16 JANET M. HEROLD
17 Regional Solicitor

18 BRUCE L. BROWN
19 Associate Regional Solicitor

20 By: 
21 SUSAN BRINKERHOFF
22 Trial Attorney

23 U.S. DEPARTMENT OF LABOR
24 Counsel for Plaintiff
25

EXHIBIT A

- 1
 - 2
 - 3
 - 4
 - 5
 - 6
 - 7
 - 8
 - 9
 - 10
 - 11
 - 12
 - 13
 - 14
 - 15
 - 16
 - 17
 - 18
 - 19
 - 20
 - 21
 - 22
 - 23
 - 24
 - 25
1. Aguilar, Victor
 2. Alejandro Alonso, Jose
 3. Almejo, Cain
 4. Alonso, Alfredo
 5. Alonso, Jose
 6. Alvarado, Carlos
 7. Alvarado, Edgar
 8. Alvarado Q., Jesus
 9. Ambrocio, Jorge
 10. Ambrocio, Rafael
 11. Ambrocio, Rodolfo
 12. Ambrosio, Jose
 13. Araiza, Adolfo
 14. Araiza, Efren
 15. Araiza, Javier
 16. Araiza Diaz, Gregorio
 17. Araiza Estrada, Jorge
 18. Araiza Rosales, Carlos
 19. Arzate R., Pedro
 20. Avalos, Jose
 21. Avalos, Querin
 22. Ayala Ramirez, Juan
 23. B. Villa Lopez, Jesus
 24. Baltazar, Erik
 25. Barajas, Jose
 26. Barraza, Mario
 27. Bautista, Dagoberto
 28. Bautista, Salvador
 29. Benavides, Arturo
 30. Blanco, Francisco
 31. Blas Blanco, Victor
 32. Cabrera, Ismael
 33. Calderon Aguirre, Adrian
 34. Cardenas, Armando
 35. Carrera, Jorge
 36. Carrillo, Santiago
 37. Castanon, Eduardo
 38. Castillo, Jose
 39. Castillo, Jose Nava
 40. Castillo, Juan
 41. Castillo Cauich, Luis
 42. Castillo T., Jorge
 43. Castillo Torres, Rogelio

- 1 44. Cauich, Carlos
- 2 45. Ceja, Abel
- 3 46. Ceja, Horacio
- 4 47. Ceja, Lauro
- 5 48. Ceja, Osbaldo
- 6 49. Cervantes, Jaime
- 7 50. Chavira, Francisco
- 8 51. Cifuentes G., Jose
- 9 52. Contreras, Jose
- 10 53. Contreras Ayala, Jose
- 11 54. Coral, Sergio
- 12 55. Cordova, Francisco
- 13 56. Cordova, Jose
- 14 57. Cortez, Juan
- 15 58. Cortreras Galvan, Horacio
- 16 59. Crisanto, Bernardino
- 17 60. Cruz, Humberto
- 18 61. De Dios, Edgar
- 19 62. De La Cruz, Leonardo
- 20 63. De La Rosa, Angel
- 21 64. De La Rosa, Cesar
- 22 65. De La Rosa, Cesar R.
- 23 66. De La Rosa, Eligio
- 24 67. De La Rosa G., Alfredo
- 25 68. De La Rosa G., Manolo
69. DeLa Cruz, Cristian
70. Diaz, Cirilo
71. Diaz, Juan
72. Diaz, Ricardo
73. Diaz, Tomas
74. Diaz Avalos, Juan
75. Duenas, Fernando
76. Duenas Salcedo, Cesar
77. Duenas Salcedo, Edgar
78. Enciso, Joel
79. Escobar, Jose
80. Escobar, Rene
81. Federico Lopez, Osvaldo
82. Fierro-Avila, Salvador
83. Figueroa Padilla, Jose
84. Flores, Javier
85. Flores, Oscar
86. Flores, Ramon
87. Garcia, Fidel
88. Garcia, Gilberto

- 1 89. Garcia, Joaquin
- 2 90. Garcia, Jose
- 3 91. Garcia, Juan
- 4 92. Garcia, Ramon
- 5 93. Garcia, Ruben
- 6 94. Garcia Castillo, Fernando
- 7 95. Garcia Castillo, Jose Alonso
- 8 96. Gomez, Hugo
- 9 97. Gomez P., Blas
- 10 98. Gonzaga, Ramon
- 11 99. Gonzales, Isaac
- 12 100. Gonzalez, Tirso
- 13 101. Guadalupe, Efrain
- 14 102. Guadalupe, Leocadio
- 15 103. Guadalupe, Marco
- 16 104. Guadalupe, Pedro
- 17 105. Guadalupe, Pedro R.
- 18 106. Guerrero, Armando
- 19 107. Guerrero Adame, Jaime
- 20 108. Guerrero B., Benigno
- 21 109. Guerrero Martinez, Isaias
- 22 110. Guerrero Martinez, Jose
- 23 111. Gutierrez, Juan
- 24 112. Gutierrez, Roberto
- 25 113. Guzman, Abraham
114. Guzman, Alfredo
115. Guzman, Apolonio
116. Guzman, Avigay
117. Guzman, Braulio
118. Guzman, David
119. Guzman, Diego
120. Guzman, Edgardo
121. Guzman, Flavio
122. Guzman, Jorge
123. Guzman, Jose A.R.
124. Guzman, Jose D.
125. Guzman, Jose R.
126. Guzman, Laris
127. Guzman, Marcos
128. Guzman, Miguel
129. Guzman, Pablo
130. Guzman A., Jose J.
131. Guzman Nava, Jose
132. Heredia, Victor
133. Hernandez, Edwin

- 1 134. Hernandez, Jesus
- 2 135. Hernandez Garcia, Alvaro
- 3 136. Hernandez Garcia, Christian
- 4 137. Hernandez Rivera, Andres
- 5 138. Herrarte, Edgardo
- 6 139. Herrera, Enrique
- 7 140. Herrera, Victor
- 8 141. Huerta Blanco, Carlos
- 9 142. Huerta Blanco, Severiano
- 10 143. Huerta Estrada, Carlos
- 11 144. Hugo Padillo, Cesar
- 12 145. Ibarra, Osvaldo
- 13 146. Jacobo, Jorge
- 14 147. Jacobo, Luis
- 15 148. Jacovo, Guillermo
- 16 149. Jimenez, Hector
- 17 150. Jose Neri Blanco, Juan
- 18 151. Larios, Fabian
- 19 152. Larios, Juan
- 20 153. Larios, Ricardo
- 21 154. Larios D., Jose
- 22 155. Larios Santos, Omar
- 23 156. Lazaro, Daniel
- 24 157. Lazaro De La Cruz, Jose
- 25 158. LeBaron, Isaias
159. Lopez, Ismael
160. Lopez, Maximiliano
161. Lopez Cardona, Everardo
162. Lopez Cardona, Ismael
163. Lopez Cardona, Saul
164. Lopez Gutierrez, Alberto
165. Lopez L., Jose
166. Lopez L., Nestor
167. Macia Ponce, Catarino
168. Macias Ponce, Eligio
169. Magana, Martin
170. Manuel Reyes, Victor
171. Maria, Edgar
172. Maria D., Francisco
173. Martinez, Fernando
174. Mejia, Juan
175. Mejia, Nerudin
176. Mendoza, Isaias
177. Mendoza, Julio
178. Mendoza, Octavio

- 1 179. Mendoza Reyna, Noe
- 2 180. Mojarro, Ramiro
- 3 181. Molinero, Alejandro
- 4 182. Montano, Jose
- 5 183. Mora Salaiza, Rigoberto
- 6 184. Morales, Arnulfo
- 7 185. Morales, Guillermo
- 8 186. Morales, Jose
- 9 187. Moreno, Osvaldo
- 10 188. Murguia Chavez, Claudio
- 11 189. Neri, Lionso
- 12 190. Neri, Oracio
- 13 191. Neri, Ramiro
- 14 192. Neri, Raul
- 15 193. Neri Benavides, Juan
- 16 194. Neri Mejia, Giovanni
- 17 195. Nery Ceja, Juan
- 18 196. Ornelas, Misael
- 19 197. Ortiz Montero, Heliodoro
- 20 198. Padilla, Felipe
- 21 199. Parra Andrade, Carlos
- 22 200. Partida, Miguel
- 23 201. Ponce Ceja, Jaime
- 24 202. Ponce Garcia, Abelardo
- 25 203. Quinones M., Francisco
204. Quinones M., Jesus
205. Quinones Mendoza, Jose
206. Quiroz, Jose
207. Ramirez, Abraham
208. Ramirez, Avigay
209. Ramirez, Constantino
210. Ramirez, Eduardo
211. Ramirez, Misael
212. Ramirez, Noe
213. Ramirez Guzman, Enrique
214. Riestra, David
215. Riestra, Demetrio
216. Riestra, Israel
217. Riestra, Oscar
218. Riestra, Victor
219. Rincon, Octavio
220. Rios, Gabriel
221. Rodriguez, Ely
222. Rodriguez, Felix
223. Rodriguez Cortez, Fernando

- 1 224. Rodriguez Orozco, Francisco
- 2 225. Rogers, Kenny
- 3 226. Romero, Adalberto
- 4 227. Romero, Alvino
- 5 228. Romero, Christian
- 6 229. Romero, Efrain
- 7 230. Romero, Hector
- 8 231. Romero, Israel
- 9 232. Romero, J. Homar
- 10 233. Romero, Jose
- 11 234. Rosales, Cornelio
- 12 235. Rosales, Guillermo
- 13 236. Rosales, Joel
- 14 237. Rosales, Jose
- 15 238. Rosales, Luis
- 16 239. Rosales, Manuel A.
- 17 240. Rosales, Manuel R.
- 18 241. Rosales B., Francisco
- 19 242. Rubio, Angel
- 20 243. Rubio, Jesus
- 21 244. Rubio, Oscar
- 22 245. Rubio, Romualdo
- 23 246. Rubio, Santiago
- 24 247. Ruiz, Bernadet
- 25 248. Ruiz, Efrain
249. Ruiz, Joel
250. Ruiz, Miguel
251. Ruiz, Tiburcio
252. Ruiz Mendoza, Ramon
253. Ruiz Negrete, Francisco
254. Salas, Adan
255. Salas, Juan
256. Sanchez, Rogelio
257. Sanchez May, Marcos
258. Sandoval, Jesus
259. Silva, Guadalupe
260. Simerka, Roger
261. Siordia, Guadalupe
262. Siordia, Ricardo
263. Siordia, Valentin
264. Sustaita, Ildefonso
265. Sustaita, Raymundo
266. Talavera, Rigoberto
267. Tejeda Corona, Antonio
268. Torres, Abel

- 1 269. Torres, Francisco
- 2 270. Torres, Jose Cruz
- 3 271. Torres, Jose Rogelio
- 4 272. Torres, Juan
- 5 273. Torres, Juan Francisco
- 6 274. Torres, Manuel
- 7 275. Torres Castillo, Javier
- 8 276. Torres T., Juan
- 9 277. Truillo Corona, Hernan
- 10 278. Urrutia, Jose
- 11 279. V. Gonzalez, Juan
- 12 280. V. Rangel Perez, Bianca
- 13 281. Valdez, Julio
- 14 282. Valverde B., Vicente
- 15 283. Vega, Dagoberto
- 16 284. Vela, Eduardo
- 17 285. Velasco, Benjamin
- 18 286. Velasco, Jesus
- 19 287. Velasco, Luis
- 20 288. Villa Rivero, Juan
- 21 289. Villarreal, Emmanuel
- 22 290. Villasenor Bernabe, Martin
- 23 291. Vitale, Daniel
- 24 292. West, Patrick
- 25 293. Yarrington, Andrew
294. Yates, John
295. Zamora, Francisco